

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
STEPHEN BAIN,

Plaintiff,

-against-

**COMBINED
DEMANDS**

Index No.: 07 CIV 8021

THE CITY OF NEW YORK, THE NEW
YORK CITY POLICE DEPARTMENT,
METROPOLITAN TRANSPORTATION
AUTHORITY, METROPOLITAN
TRANSPORTATION POLICE DEPARTMENT,
LONG ISLAND RAILROAD d/b/a
MTA LONG ISLAND RAILROAD,
LONG ISLAND RAILROAD POLICE
DEPARTMENT, PO ROBERT
ARONSON - shield 02300, PO DANIEL
MCDADE - shield 2020, and "JOHN DOES"
(names not know and fictitious)- POLICE
OFFICER,

Defendants.

-----X

COUNSELORS:

PLEASE TAKE NOTICE, that the undersigned hereby makes the
following demands upon you as to each and every cause of action herein:

1. Demand for Names and Addresses of all Witness;
2. Demand for the Discovery and Inspection of any Statements of Witnesses;
3. Demand for the Discovery and Inspection of any Statement of a Party
represented by the undersigned;
4. Demand for Expert Witness Information;
5. Demand for Medical Information;

6. Notice for Discovery and Inspection of Photographs;
7. Notice for Discovery and Inspection of Items in plaintiff's possession.

returnable at the office of the undersigned within thirty (30) days from the date hereof, as follows:

1. **Demand for the Names and Addresses of Witnesses**

PLEASE TAKE NOTICE, that the undersigned hereby demands, pursuant to Rule 34 of the Federal Rules of Civil Procedure, that you set forth in writing and under oath, the name and address of each person claimed by any party you represent, to be a witness to any of the following:

- (a) The occurrence alleged in the complaint;
- (b) any acts, omissions or conditions which allegedly caused the occurrence alleged in the complaint; or
- (c) any actual notice allegedly given to the defendant or any employee of defendant of any condition which allegedly caused the occurrence alleged in the complaint; or
- (d) the nature and duration of any alleged condition which allegedly caused the occurrence alleged in the complaint.

If no such witnesses are known to plaintiff, so state in the sworn reply to this Demand. The undersigned will object upon trial to the testimony of any witnesses not so identified.

2. Demand for Discovery and Inspection of any Statements of Witnesses

PLEASE TAKE FURTHER NOTICE, that the undersigned hereby demands, on behalf of each party represented by him in this action, that pursuant to Rule 34 of the Federal Rules of Civil Procedure, you produce at the time and place herein specified, and permit the undersigned to discover, inspect and copy each and every statement made by or taken from any witness identified in response to the demand for the names and addresses of witnesses hereinabove now in your possession, custody or control or in the possession, custody or control of any party you represent in this action, if such statement in any manner bears upon the issues in this action.

3. Demand for Discovery and Inspection of any Statement of a Party

Represented by the undersigned.

PLEASE TAKE FURTHER NOTICE, that the undersigned demands, on behalf of each party represented by him in this action, that pursuant to Rule 34 of the Federal Rules of Civil Procedure, you produce at the time and place herein specified, and permit the undersigned to discover, inspect and copy each and every statement made by or taken from such party and his, her or its agents, servants or employee now in your possession, custody or control or in the possession, custody or control of any party you represent in this action, if such statement in any manner bears on the issues in this action.

4. Demand for Expert Witness Information

PLEASE TAKE NOTICE, that pursuant to FRCP 26(B)(4)(A)(i), it is demanded that responses to the following be served upon the undersigned within twenty (20) days from the date of service hereof:

- a) Except with regard to the names of medical or dental liability experts in medical or dental malpractice cases, identify each person who plaintiff expects to call as an expert witness at trial.
- b) For each person plaintiff expects to call as an expert witness at trial, disclose in reasonable detail:
 - i) the subject matter on which each expert is expected to testify;
 - ii) the substance of the facts and opinions on which each expert is expected to testify;
 - iii) the qualifications of each expert witness;
 - iv) a summary of the grounds for each expert's opinion.

PLEASE TAKE FURTHER NOTICE, that this demand is a continuing one, and all responsive information that subsequently is made known or becomes available to plaintiff shall be furnished to the undersigned within a reasonable time thereafter.

PLEASE TAKE FURTHER NOTICE, that defendant will move at the time of trial or prior thereto to preclude the giving of testimony by any expert for whom full and complete information has not been furnished in compliance with this demand.

5. Demand for Medical Information

PLEASE TAKE NOTICE, that pursuant to the Rules of the Court, you are required to serve upon and deliver to the undersigned and all other parties to the action, the following:

- (a) Copies of the medical reports of those physicians who have previously treated or examined the party seeking recovery, and who

will testify on his behalf. These shall include a detailed recital of the injuries and conditions as to which testimony will be offered at the trial, referring to and identifying those x-rays and technicians' reports which will be offered at the trial.

- (b) Duly executed and acknowledged written authorizations permitting all parties to obtain and make copies of all hospital records, and such other records including x-ray and technicians' reports as may be referred to and identified in the statement of the examined party's physicians.

PLEASE TAKE FURTHER NOTICE, that failure to comply with this notice will serve as a basis of a motion to preclude the plaintiff upon the trial of this action from offering proof relative to medical damages if such authorizations and certificates are not forthcoming within (20) days after service of a copy of the within notice.

6. Notice for Discovery and Inspection of Photographs

PLEASE TAKE NOTICE, that pursuant to Rule 34 of the Federal Rules of Civil Procedure, the defendant herein demands production of the following for inspection and copying:

- 1. Produce and provide copies of any and all photographs, slides, videotapes or motion pictures in plaintiff's custody or control depicting:
 - (a) the scene of the accident.
 - (b) the defective condition involved.

(c) the injuries to the plaintiff.

2. State the name and address of the photographer who took said photographs and the date same were taken.

If no such photographs are in the possession, custody or control of any parties you represent in this action, so state in the sworn reply to this demand.

7. Notice for Discovery and Inspection of Items in Plaintiff's Possession

PLEASE TAKE NOTICE, that pursuant to Rule 34 of the Federal Rules of Civil Procedure, you are hereby required to produce and permit discovery by the undersigned, or someone acting on their behalf, any and all items, claimed by plaintiff to be an instrumentality of plaintiff's injuries, in plaintiff's possession.

PLEASE TAKE FURTHER NOTICE, that the foregoing are continuing demands and that if any of the above items are obtained after the date of this demand, they are to be furnished to the undersigned pursuant to these demands.

PLEASE TAKE FURTHER NOTICE, that failure to comply with the demands contained in this notice will result in a motion by the undersigned for appropriate relief.

Dated: Riverhead, New York
February 6, 2008

Yours, etc.

LEWIS JOHS AVALLONE AVILES, LLP
Attorneys for Defendants
METROPOLITAN TRANSPORTATION
AUTHORITY, METROPOLITAN
TRANSPORTATION AUTHORITY POLICE
DEPARTMENT, LONG ISLAND RAILROAD d/b/a
MTA LONG ISLAND RAILROAD, LONG ISLAND
RAILROAD POLICE DEPARTMENT, PO
ROBERT ARONSON - shield 02300, PO DANIEL
MCDADE - shield 2020, and "JOHN DOES" (names
not known and fictitious) - Police Officers
21 East Second Street
Riverhead, New York 11901
631.369.7600

By: 

Edward G. Lukoski (EL 7845)

TO:

JOSEPH T. MULLEN, JR. & ASSOCIATES
Attorneys for Plaintiff
30 Vesey Street, 15th Floor
New York, New York 10007
212.766.1177

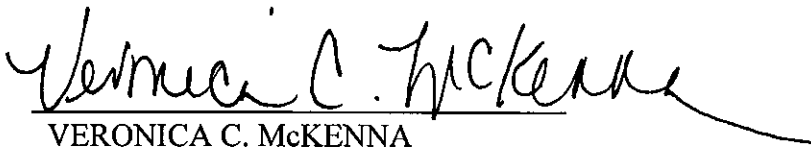
STATE OF NEW YORK)
) ss.:
COUNTY OF SUFFOLK)

VERONICA C. McKENNA, being duly sworn, deposes and says:


That deponent is not a party to this action, is over 18 years of age and resides in Manorville, New York.

That on the 7th day of February, 2008, deponent served the within **COMBINED DEMANDS** upon the attorneys below set forth representing the parties, as indicated, at the addresses shown, said addresses being designated by said attorneys for that purpose, by depositing a true copy of same, enclosed in a postpaid properly addressed wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York.

JOSEPH T. MULLEN, JR. & ASSOCIATES
30 Vesey Street, 15th Floor
New York, New York 10007
212.766.1177


VERONICA C. McKENNA

Sworn to before me this
7th day of February, 2008.


Lois A. Skula
Notary Public, State of New York
Registration No.: 4966255
Qualified in Suffolk County
Commission Expires :May 1, 2010

LEWIS JOHS
Lewis John Avallone Aviles, LLP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Year 20

STEPHEN BAIN,

Plaintiff,

- against -

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, METROPOLITAN
TRANSPORTATION AUTHORITY, METROPOLITAN TRANSPORTATION POLICE
DEPARTMENT, LONG ISLAND RAILROAD d/b/a MTA LONG ISLAND RAILROAD, LONG
ISLAND RAILROAD POLICE DEPARTMENT, PO ROBERT ARONSON - shield 02300, PO DANIEL
MCDADE - shield 2020, and "JOHN DOES" (names not known and fictitious)- POLICE OFFICERS,

Defendant.

Combined Demands

LEWIS JOHS

Lewis John Avallone Aviles, LLP

Counsellors at Law

Attorneys for

Office and Post Office Address
21 East Second Street • Riverhead, NY 11901
631.369.7600 • Fax 631.369.7680
FILE #:

CERTIFICATION PURSUANT TO 22 N.Y.C.R.R. § 130-1.1a

The undersigned hereby certifies that, pursuant to 22 N.Y.C.R.R. § 130-1.1a, the contentions contained in the annexed document(s) is not frivolous nor frivolously presented

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

Sir: Please take notice

☐ NOTICE OF ENTRY

that the within is a (certified) true copy of a
duly entered in the office of the clerk of the within named court on

20

☐ NOTICE OF SETTLEMENT

that an order
settlement to the HON.
of the within named court, at

of which the within is a true copy will be presented for
one of the judges

on

20

at

M.

Yours, etc.

Dated,

LEWIS JOHS